

Application No. 10/806041 (Docket: CNTR.2215)
Response A - Election of Claims dated 10/04/2006
Reply to Office Action of 09/13/2006

depending from or otherwise requiring all the limitations of the allowable linking claim(s) will be rejoined and fully examined for patentability in accordance with 37 CFR 1.104. The Examiner pointed out that claims that require all the limitations of an allowable linking claim will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier, and that amendments submitted after final rejection are governed by 37 CFR 1.116; amendments submitted after allowance are governed by 37 CFR 1.312. The Examiner advised Applicant(s) that if any claim(s) including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application, and also that where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable.

The Examiner noted that should Group I be elected, this application contains claims directed to the following patentably distinct species:

- A: programmable number of clock cycles:
 - Species I: Established for each signal (claims 3, 18);
 - Species 11: Same number for each signal (claims 4, 19).
- B: providing the programmable number:
 - Species I: By executing an instruction (claims 7,22);
 - Species 11: By setting the state of fuses (claims 8,23).

The Examiner required Applicant under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable, pointing out that currently, claims 2, 6, 17, and 21 are considered generic.

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The Examiner further stated that should Group II be elected, this application contains claims directed to the following patentably distinct species:

- A: programmable number of clock cycles:
 - Species I: Established for each signal (claim 1 I);
 - Species 11: Same number for each signal (claim 12).
- B: providing the programmable number:
 - Species I: By executing an instruction (claim 14);
 - Species 11: By setting the state of fuses (claim 15).

Regarding Group II, the Examiner required Applicant under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable, and pointed out that currently, claims 10 and 13 are considered generic. The Examiner advised Applicant that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. The Examiner stated that an argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election, and that upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. The Examiner asserted that if claims are added after the election, applicant must indicate which are readable upon the elected species.

Responsive to the restriction requirement, without traversal Applicant hereby elects to proceed with Invention I, claims 1-8 and 16-23, for examination. Please withdraw claims 9-15 from further consideration without prejudice until such time that an indication is presented concerning the allowability of claim 5, the linking claim.

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Applicant earnestly requests that the Examiner contact the undersigned practitioner by telephone if the Examiner has any questions or suggestions concerning this amendment, the application, or allowance of any claims thereof.

I hereby certify under 37 CFR 1.8 that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on the date of signature shown below.

Respectfully submitted,
HUFFMAN PATENT GROUP, LLC

/Richard K. Huffman/

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10/04/2006

Date: _____